

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GRADY HUDSON, et al.,

Plaintiff,

v.

PATRICIA CARUSO, et al.,

Defendant.

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CASE NO. 1:10-CV-58

HON. ROBERT J. JONKER

**ORDER APPROVING REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Brenneman's Report and Recommendation (docket # 48) concerning Plaintiffs' Motion for Preliminary Injunction (docket # 40), and Plaintiffs' Objections to the Report and Recommendation (docket # 51). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on *de novo* reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b). *De novo* review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed *de novo* the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiffs' objections. After its review, the Court finds that

Magistrate Judge Brenneman's Report and Recommendation is factually sound and legally correct.

In their Motion for Preliminary Injunction (docket # 40), Plaintiffs seek to have the food service director at the facility in which they are incarcerated establish a partial Halal kitchen and provide specific Halal foods during Ramadan of 2010. Ramadan of 2010 ends on September 10, 2010. Therefore, the preliminary injunctive relief Plaintiffs seek is effectively moot. The Court notes that on this record, the Report and Recommendation points out multiple hurdles Plaintiffs will have to surmount to prevail on the merits in this case. (Report and Recommendation, docket # 48, 5-13.) The Report and Recommendation also points out weaknesses in Plaintiffs' contention that in the absence of injunctive relief they will suffer irreparable harm. (*Id.* at 13-14.) Even if the preliminary injunctive relief Plaintiffs seek were not moot, the Court would exercise its discretion to deny Plaintiffs' motion for emergent relief to allow a fuller development of facts, and resolution of procedural issues.

**ACCORDINGLY, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge (docket # 48) is approved and adopted as the opinion of the Court.

**IT IS FURTHER ORDERED** that Plaintiffs' Motion for Preliminary Injunction (docket # 40) is **DENIED**.

/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE

Dated: September 14, 2010